

district where the claim was presented, or where the respondent resides.

(c) The amount of a penalty and assessment when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States, or by a State agency, to the respondent.

(d) Matters that were raised or that could have been raised in a hearing before an ALJ or in an appeal under section 1128A(e) of the Act may not be raised as a defense in a civil action by the United States to collect a penalty under this part.

[51 FR 34777, Sept. 30, 1986, as amended at 57 FR 3349, Jan. 29, 1992; 65 FR 24418, Apr. 26, 2000]

#### **§ 1003.129 Notice to other agencies.**

Whenever a penalty, assessment or exclusion become final, the following organizations and entities will be notified about such action and the reasons for it—the appropriate State or local medical or professional association; the appropriate Quality Improvement Organization; as appropriate, the State agency responsible or the administration of each State health care program; the appropriate Medicare carrier or intermediary; the appropriate State or local licensing agency or organization (including the Medicare and Medicaid State survey agencies); and the long-term care ombudsman. In cases involving exclusions, notice will also be given to the public of the exclusion and its effective date.

[57 FR 3349, Jan. 29, 1992]

#### **§ 1003.132 Limitations.**

No action under this part will be entertained unless commenced, in accordance with § 1003.109(a) of this part, within 6 years from the date on which the claim was presented, the request for payment was made, or the incident occurred.

[57 FR 3349, Jan. 29, 1992]

#### **§ 1003.133 Statistical sampling.**

(a) In meeting the burden of proof set forth in § 1005.15, the Inspector General may introduce the results of a statistical sampling study as evidence of the number and amount of claims and/or

requests for payment as described in § 1003.102 that were presented or caused to be presented by respondent. Such a statistical sampling study, if based upon an appropriate sampling and computed by valid statistical methods, shall constitute prima facie evidence of the number and amount of claims or requests for payment as described in § 1003.102.

(b) Once the Inspector General has made a prima facie case as described in paragraph (a) of this section, the burden of production shall shift to respondent to produce evidence reasonably calculated to rebut the findings of the statistical sampling study. The Inspector General will then be given the opportunity to rebut this evidence.

[51 FR 34777, Sept. 30, 1986, as amended at 57 FR 3349, Jan. 29, 1992]

#### **§ 1003.134 Effect of exclusion.**

The effect of an exclusion will be as set forth in § 1001.1901 of this chapter.

[57 FR 3349, Jan. 29, 1992]

#### **§ 1003.135 Reinstatement.**

A person who has been excluded in accordance with this part may apply for reinstatement at the end of the period of exclusion. The OIG will consider any request for reinstatement in accordance with the provisions of §§ 1001.3001 through 1001.3004 of this chapter.

[57 FR 3349, Jan. 29, 1992]

### **PART 1004—IMPOSITION OF SANCTIONS ON HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES BY A QUALITY IMPROVEMENT ORGANIZATION**

#### **Subpart A—General Provisions**

Sec.

1004.1 Scope and definitions.

#### **Subpart B—Sanctions Under the QIO Program; General Provisions**

1004.10 Statutory obligations of practitioners and other persons.

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